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Attorneys for Defendants
CITY OF PETALUMA and
OFFICER PAUL ACCORNERO

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

MELVIN ATKINS,

Plaintiff,

v.

CITY OF PETALUMA; PETALUMA POLICE
DEPARTMENT; OFFICER PAUL
ACCORNERO; and DOES 1 through 100,
inclusive,

Defendants.

Case No: C07-05524 SI

**JOINT CASE MANAGEMENT
CONFERENCE STATEMENT**

DATE: May 14, 2008
TIME: 2:30 a.m.
DEPT: Courtroom 10, 19th Floor
JUDGE: Hon. Susan Illston

Complaint Filed: September 14, 2007
Trial Date: February 9, 2009

1 The parties to the above-entitled case jointly submit their Updated Case Management
2 Statement and request that the Court adopt this statement in issuing its case management order.

3 1. Jurisdiction & Service. This is a civil rights case, under 42 USC 1983, seeking damages,
4 for violation of the plaintiff's constitutional rights, thus jurisdiction is proper based upon 28 USC
5 §1441(b) based upon federal question. All parties have been served.

6 2. Facts:

7 A. Plaintiff's Facts:

8 The On December 19, 2006, at approximately 6:25 a.m., Plaintiff MELVIN ATKINS
9 (hereinafter 'MR. ATKINS') was riding a bicycle down the street across from the local Sheriff
10 Department Station in Marin City. As MR. ATKINS rode past, a Petaluma Police Department
11 officer (DEFENDANT ACCONERO) was taking his K-9 attack dog, a Belgian Malinois named
12 Roy, from the back of a patrol car. The dog saw MR. ATKINS and bolted towards him as if to
13 attack. Startled, knowing that police K-9s are highly trained attack dogs, MR. ATKINS hit his
14 brakes hard, causing him to fly forward over the handle bars and into the air.

15 As the dog approached, MR. ATKINS heard Defendant ACCORNERO give the dog a
16 "NO!" command. MR. ATKINS hit the ground hard with a thud. Dazed, MR. ATKINS could feel
17 the dog biting him in several different spots on his body. After the attack, MR. ATKINS could feel
18 DEFENDANT ACCORNERO trying to place himself between MR. ATKINS and the dog, while
19 continuing to give the dog the "NO!" command. As MR. ATKINS lay on the ground, he could see
20 DEFENDANT ACCORNERO physically carrying the dog away in his arms and continuing to give
21 the "NO!" command as the dog continued to bark

22 After the attack, MR. ATKINS went to the emergency room at Marin General Hospital.
23 Subsequently he made several visits to the Marin City Clinic and has received treatment from a
24 therapist regarding the incident.

25 B. Defendants' Facts:

26 On December 19, 2006, at 6 a.m., Officer Paul Accornero was with his K-9 dog, Roy,
27 when Mr. Atkins came riding down the middle of the street on a bike. Officer Accornero heard Mr.
28 Atkins jam on his breaks and saw Mr. Atkins fall. Roy went over to Mr. Atkins, who was wearing

1 layers of puffy jackets like the K-9 trainers wear, and Roy put his jaw around Mr. Atkins' elbow.
2 Officer Accornero immediately gained control of the dog. Roy did not break through Mr. Atkins'
3 skin at all and Mr. Atkins admitted he was fine, but as he was about to leave, an individual came
4 over to the two men and repeatedly told Mr. Atkins that he should sue the City. Subsequently, Mr.
5 Atkins did.

6 3. Legal Issues:

- 7 a. Whether Mr. Atkins was injured?
- 8 b. Whether any of Mr. Atkins' rights were violated?
- 9 c. Whether Officer Accornero and the City are entitled to qualified immunity?

10 4. Motions: Defendants may bring a summary judgment motion based upon qualified
11 immunity.

12 5. Amendment of Pleadings: N/A.

13 6. Evidence Preservation: Defendants have notified all relevant departments to maintain and
14 preserve anything related to this Action.

15 7. Disclosures: The parties will exchange their Disclosures prior to this Conference.

16 8. Discovery: The parties have agreed to hold off on depositions and exchanging written
17 discovery until after attending an early settlement conference, provided the parties make their Rule
18 26 disclosures.

19 9. Class Actions: N/A.

20 10. Related Cases: N/A.

21 11. Relief: Plaintiff has suffered and continues suffer physical and emotional injuries as a result
22 of the attack. Plaintiff seeks to recover for his out of pocket economic losses for medical and
23 mental health expenses and other economic losses. Additionally plaintiff seeks recovery for his
24 non-economic damages.

25 12. Settlement and ADR: The parties have a further settlement conference scheduled on May 2,
26 2008 before Magistrate Judge Zimmerman.

27 13. Consent to Magistrate Judge For All Purposes: Defendants previously declined to proceed
28 before a Magistrate Judge.

14. Other References: N/A.

15. Narrowing of Issues: Unknown at this time.

16. Expedited Schedule: N/A.

17. Scheduling: Each party may take all depositions agreed to by code or as agreed to between parties; Each Party shall be entitled to propound written discovery; Each party may propound unlimited requests for production of documents or things; Each party may propound unlimited request for admissions; Fact discovery cutoff on **September 12, 2008**; Expert disclosures and reports by **October 3, 2008**; Expert rebuttal reports **October 17, 2008**; Expert dispositions to be completed by **October 30, 2008**; Last day of hearing on motions **November 7, 2008**; The parties agree to meet and confer concerning any modifications to this plan.

18. Trial: Plaintiff requests jury trial; defendants reserve. Estimated length of trial is 3 days. Trial set for: **February 9, 2009**; Pre-trial conference set for: **January 26, 2009**; Mandatory pre-trial settlement conference set for: **February 2, 2009**.

19. Disclosure of Non-Party Interested Entities or Persons: The parties will separately file their "Certification of Interested Entities or Persons." Defendants are presently unaware of any other interested parties.

20. Any Other Matters: N/A.

Dated: April 25, 2008

LAW OFFICES OF CHARLES A. BONNER

By: _____/s/
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Attorneys for Plaintiff
MELVIN ATKINS

Dated: April 25, 2008

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